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RESHMA KAMATH
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Menlo Park, California 94025, United States
Ph.: 650 257 0719, E.: reshmakamath2021@gmail.com
IN PROPRIA PERSONA

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

RESHMA KAMATH,
Plaintiff,

v.

**SAN FRANCISCO POLICE
DEPARTMENT (SFPD); UNITED
STATES DEPARTMENT OF
HOMELAND SECURITY; FEDERAL
PROTECTIVE SERVICES; AND
DOES 1-10, INCLUSIVE,**

Defendants.

Case Number: 3:23-CV-3531-JSC

OPPOSITION

HEARING:
Date: March 14, 2024
Time: 10:00 a.m. Pacific Time
Place: Courtroom 8 - 19th Floor 450
Golden Gate Ave. San Francisco, CA
94102

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1 vehicles can be parked on 450 Golden Gate Ave., San Francisco outside the federal
2 Phillip Burton building. If not, then Defendant San Francisco Police Department
3 needs to elaborate why it lets several civilians and non-authorized individuals and
4 vehicles park on that road on either side on different days – when there is a stated
5 policy that claims otherwise – while not letting specific persons, such as Plaintiff
6 Reshma Kamath parked therein.
7

8
9 Absent a formal government policy that is unconstitutional, Plaintiff Reshma
10 Kamath has proven in the Complaint to demonstrate the existence of a “longstanding
11 practice or custom” of retaliatory vehicle tows. *Trevino v. Gates* (9th Cir. 1996) 99
12 F.3d 911, 918. As the Ninth Circuit explained in *Trevino*,

13
14 “The custom must be so persistent and widespread that it constitutes a
15 permanent and well-settled city policy. . . . Liability for improper custom may
16 not be predicated on isolated or sporadic incidents; it must be founded upon
17 practices of sufficient duration, frequency and consistency that the conduct
18 has become a traditional method of carrying out policy.”

19 Plaintiff Reshma Kamath has met her burden in the Complaint, or can should
20 leave to amend be granted.

21 Unlike what Defendant San Francisco Police Department seems to insinuate,
22 Plaintiff Reshma Kamath has no other basis for relief except to seek monetary
23 damages to be made whole in this situation. Defendants San Francisco Police
24 Department have even failed to properly follow the Ninth Circuit’s basic rule of 14-
25

1 font and the pleading paper line is missing in San Francisco Police Department's
2 Motion to Dismiss.

3
4 Thus, the Complaint can survive for adequately pleading factual allegations to
5 meet the plausibility and possibility standards of Fed. *Rul. Civ. Proc. Rul. 7* and 8A.
6 Both the notice and fact-pleading requirements were met in the Complaint.

7
8 The Defendant's motion to dismiss must be denied, and in the alternative, the
9 leave to amend must be liberally granted.

10 LAW

11
12 To survive a motion to dismiss, a complaint must contain sufficient factual
13 matter, accepted as true, to state a claim for relief that is plausible on its face.
14 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim is facially plausible when there
15 are sufficient factual allegations to draw a reasonable inference that the defendant is
16 liable for the conduct alleged. While a court "must take all of the factual allegations
17 in the complaint as true," it is "not bound to accept as true a legal conclusion
18 couched as a factual allegation." Id. at 678 (quoting *Bell Atl. Corp. v. Twombly*, 550
19 U.S. 544, 555 (2007)).

20
21
22 "To uphold a dismissal [for failure to state a claim for relief, the federal
23 counterpart of our general demurrer], it must appear to a certainty that the plaintiff
24 would not be entitled to relief under any set of facts that could be proved."
25 [Citation.]'" *Arce v. Childrens Hospital Los Angeles* (2012) 211 Cal.App.4th 1455,

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1 1471, 150 Cal.Rptr.3d 735 (Arce), quoting *Bullock v. City and County of San*
2 *Francisco* (1990) 221 Cal.App.3d 1072, 1088, 271 Cal.Rptr. 44. “Therefore,
3 dismissal is proper only where ‘it appears beyond doubt that the plaintiff can prove
4 no set of facts in support of the claims that would entitle him to relief.’ (*Osborne v.*
5 *District Attorney’s Office for Third Judicial Dist.* (9th Cir.2005) 423 F.3d 1050,
6 1052; see *Jensen v. City of Oxnard* (9th Cir.1998) 145 F.3d 1078, 1082 (Jensen).)”

7 ARGUMENT

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9
10 “Actions speak louder than words.” Wise *Abraham Lincoln* in the year 1856
11 that Mark Twain reiterated.

12 13 **I. PLAINTIFF RESHMA KAMATH HAS PLAUSIBLY AND POSSIBLY** 14 **PLED FACTUAL ALLEGATIONS TO SURVIVE A FED. *RUL. CIV. PROC.*** 15 ***RUL. 12 (B) (6) MOTION TO DISMISS*** 16

17 In this Complaint, Plaintiff Reshma Kamath has surpassed putative statements
18 – rather relying on tenable facts.

19 To survive a motion to dismiss, a plaintiff must plead “only enough facts to
20 state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550
21 U.S. 544, 570 (2007). This “plausibility standard,” however, “asks for more than a
22 sheer possibility that a defendant has acted unlawfully,” *Ashcroft v. Iqbal*, 556 U.S.
23 662, 678 (2009), and “[w]here a complaint pleads facts that are ‘merely consistent
24 with defendant’s liability, it ‘stops short of the line between possibility and
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1 plausibility of entitlement to relief.’’ Id. (quoting *Twombly*, 550 U.S. at 557). In
2 deciding whether a plaintiff has stated a claim, the court must accept the allegations
3 in the complaint as true and draw all reasonable inferences in favor of the plaintiff.
4
5 *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974), overruled on other grounds by *Davis*
6 *v. Scherer*, 468 U.S. 183 (1984); *Cruz v. Beto*, 405 U.S. 319, 322 (1972).

7
8 This Court must construe the complaint’s alleged facts liberally and give the
9 complaint a reasonable interpretation, reading the complaint as a whole and reading
10 its parts in their context. *Evans v. City of Berkeley* (2006) 38 Cal.4th 1, 6, 40
11 Cal.Rptr.3d 205, 129 P.3d 394; *Delon Hampton & Associates, Chartered v. Superior*
12 *Court* (2014) 227 Cal.App.4th 250, 254, 173 Cal.Rptr.3d 407.

14 **II. PLAINTIFF RESHMA KAMATH HAS ADEQUATELY PLED**
15 **FACTUAL ALLEGATIONS TO EACH CAUSE OF ACTION PLED IN THE**
16 **COMPLAINT**

18 Plaintiff Reshma Kamath has adequately pled the 1983 allegations that while
19 Plaintiff Reshma Kamath was ticketed and her car-towed, while those similarly-
20 situated while parked on the same street of 450 Golden Gate Ave., San Francisco,
21 California, in the same locations were not ticketed and not towed. ***Exhibits A, B to***
22 ***the Opposition.***

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25 Defendants San Francisco Police Department have violated Plaintiff Reshma
26 Kamath’s constitutional rights – when no exigent circumstances to obstruct such
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28

OPPOSITION

 **RESHMA KAMATH**
LAW FIRM

1 parking of Plaintiff – while allowing other similarly-situated public members to park
2 on the same street.

3 **A. PLAINTIFF RESHMA KAMATH HAS ADEQUATELY PLED**
4 **FACTUAL ALLEGATIONS TO 42 USC 1983 MONELL POLICY OR**
5 **CUSTOM CLAIMS**

6 **SFPD as governmental agency**

7
8
9 Allegations of *Monell* violations in the Complaint pled against the Defendant
10 San Francisco Police Department are imputed to the City and County of San
11 Francisco – whether or not the latter are named as defendants in the Complaint.
12

13 Plaintiff Reshma Kamath contends that Defendant San Francisco Police
14 Department is an agency, because Defendant, in its Motion to Dismiss, concedes
15 that it is a department of the City and County of San Francisco. Plaintiff Reshma
16 Kamath contends that as a governmental agency, any policy or custom under *Monell*
17 applies to the Defendant San Francisco Police Department. Plaintiff Reshma Kamath
18 is not seeking vicarious liability or *respondeat superior*.
19
20

21 Section 1983 states, in pertinent part:

22 “Every person who, under color of any statute, ordinance, regulation,
23 custom, or usage, of any State or Territory or the District of Columbia,
24 subjects, or causes to be subjected, any citizen of the United States or other
25 person within the jurisdiction thereof to the deprivation of any rights,
26 privileges, or immunities secured by the Constitution and laws, shall be liable
27 to the party injured in an action at law....” (42 U.S.C. § 1983, italics added.)
28

1 In *Monell, supra*, 436 U.S. at page 658, in which the Supreme Court held
2 local governmental entities and local officials can be liable under the statute when an
3 official policy or custom leads to the violation of a federally secured civil right. (Id.
4 at pp. 690–691.) The high court reached this conclusion after an exhaustive
5 examination of the legislative history of section 1983 (enacted as § 1 of the 1871
6 Civil Rights Act) and the statutory language. *Monell*, at pp. 665–695. “Our analysis
7 of the legislative history of the Civil Rights Act ... compels the conclusion that
8 Congress did intend municipalities and other local government units to be included
9 among those persons to whom § 1983 applies.” Id. at p. 690, 98 S.Ct. 2018.
10 “Instead, it is when execution of a government’s policy or custom, whether made by
11 its lawmakers or by those whose edicts or acts may fairly be said to represent official
12 policy, inflicts the injury that the government as an entity is responsible under §
13 1983.” Id. at p. 694.

14 For example, in this case, Plaintiff Reshma Kamath has established liability
15 for governmental entity, Defendant San Francisco Police Department under *Monell*,
16 Plaintiff has proven that: (1) Plaintiff Reshma Kamath had a constitutional right of
17 parking freely (when no exigency was stated) to which Plaintiff Reshma Kamath
18 was deprived; (2) Defendant San Francisco Police Department had a policy of not
19 parking at certain locations such as 450 Golden Gate Ave., San Francisco, California
20 while allowing several public members park there on different days without
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1 enforcing such a policy against them while causing towing/ticketing of Plaintiff
2 Reshma Kamath's car; (3) the Defendant San Francisco Police Department's policy
3 amounts to deliberate indifference to Plaintiff Reshma Kamath's constitutional
4 rights; and (4) that Defendant San Francisco Police Department's policy is the
5 moving force behind the constitutional violation. *Plumeau v. Sch. Dist. No. 40 Cnty.*
6 *of Yamhill*, 130 F.3d 432, 438 (9th Cir. 1997).
7

8
9 Similarly, in *Redman v. County of San Diego* (9th Cir. 1991) 942 F.2d 1435,
10 the court holding that a county sheriff in California could be found to have been
11 deliberately indifferent where the sheriff "knew or reasonably should have known of
12 the overcrowding at a facility under his administration and . . . he acquiesced in a
13 deficient policy that was a moving force."
14

15
16 The agents of Defendant San Francisco Police Department, including but not
17 limited to Steve Glumas, and those were the police officers in Exhibit B who
18 committed the Monell violation. See, where "Tsotsikyan and Leon became
19 concerned that Garcia was towing cars in exchange for illegal kickbacks from L&M
20 Towing." *Tyan, Inc. v. Garcia* (C.D. Cal., May 2, 2017, No. CV 15-05443- MWF
21 (JPRx)) [pp. 8].
22

23 **Policy**

24
25 The Monell liability against Defendants San Francisco Police Department
26 turns on the term "policy".
27

1 “The term “policy” “generally implies a course of action consciously chosen
2 from among various alternatives.” *City of Oklahoma v. Tuttle*, 471 U.S. 808, 823,
3 105 S.Ct. 2427, 2436, 85 L.Ed.2d 791 (1985). Monell imposes liability for injuries
4 resulting from such a choice,” *Redman v. County of San Diego* (9th Cir. 1991) 942
5 F.2d 1435, 1445.
6

7
8 Defendant San Francisco Police Department consciously decided to choose an
9 action among various alternatives. This indifference is specific to why other cars on
10 the same street were not towed where Plaintiff Reshma Kamath has demonstrated
11 pictorially that those individuals and vehicles were civilian vehicles without
12 authorization. Plaintiff Reshma Kamath is not challenging the towing or why her car
13 was towed – had the Defendant San Francisco Police Department carried out such a
14 policy to all individuals on that particular street following that policy then there
15 would be no discrimination. However, as Plaintiff Reshma Kamath had observed,
16 Defendant San Francisco Police Department was allowing several civilian vehicles
17 and individuals park their cars as and when they wanted – at either side of the 450
18 Golden Gate Ave., San Francisco, California; whereas Defendant San Francisco
19 Police Department particularly targeted Plaintiff and her vehicle. The day prior to
20 the Defendant San Francisco Police Department’s towing there were two officers in
21 their official car who parked next to Plaintiff Reshma Kamath’s car and were
22 watching her as she drove from the parking. These were the same officers the next
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OPPOSITION

1 day that would not let Plaintiff get her car released in the afternoon claiming one
2 particular officer was gone for the day.

3
4 A policy may be shown “where — and only where — a deliberate choice to
5 follow a course of action is made from among various alternatives” by
6 policymakers. *Meehan v. County of Los Angeles*, 856 F.2d 102, 107 (9th Cir. 1988)
7 (quoting *Pembaur*, 475 U.S. at 483-84, 106 S.Ct. at 1300).
8

9 A “policy” is defined as a deliberate choice made by officials with final
10 authority over the subject matter at issue. See also *Pembaur*, 475 U.S. at 481 n. 9,
11 106 S.Ct. at 1299 n. 9 (a “policy” is a “ ‘specific decision . . . designed to carry out
12 such a chosen course of action.’”) (quoting Webster’s Third New International
13 Dictionary 1754 (1981)); *Tuttle*, 471 U.S. at 823, 105 S.Ct. at 2436 (the term
14 “policy” “generally implies a course of action consciously chosen from among
15 various alternatives”).
16
17

18 In *City of Canton v. Harris*, 489 U.S. 378, 390, 109 S.Ct. 1197, 1205-06, 103
19 L.Ed.2d 412 (1989), the Supreme Court held inadequate training could represent a
20 “policy” for which liability could be imposed upon a local government. To establish
21 the existence of such a policy, the Court required proof of facts evidencing the local
22 government’s awareness of a high probability of harm if the government failed to
23 act. *Redman v. County of San Diego* (9th Cir. 1991) 942 F.2d 1435.
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1 In a recent case decided in the U.S. District Court for the Northern District of
2 Illinois, the court denied the defendant officers’ motion to dismiss on grounds that
3 the plaintiffs had plausibly stated a Monell custom claim for “fail[ing] to investigate
4 citizen complaints and abdicated its responsibility to train, supervise, discipline, and
5 control its officers.” *Baker v. City of Chicago*, 483 F. Supp. 3d 543 (N.D. Ill. 2020).
6

7
8 **B. PLAINTIFF RESHMA KAMATH HAS ADEQUATELY PLED**
9 **FACTUAL ALLEGATIONS OF DUE PROCESS VIOLATIONS.**

10 No state may “deprive any person of life, liberty, or property, without due
11 process of law.” The courts have long interpreted this — along with the parallel
12 restriction on the federal government in the Fifth Amendment — to require that
13 notice generally be given before the government may seize property. See *Mullane v.*
14 *Cent. Hanover Bank Trust Co.*, 339 U.S. 306, 313, 70 S.Ct. 652, 94 L.Ed. 865
15 (1950) (“Many controversies have raged about the cryptic and abstract words of the
16 Due Process Clause but there can be no doubt that at a minimum they require that
17 deprivation of life, liberty or property by adjudication be preceded by notice and
18 opportunity for hearing appropriate to the nature of the case.”); see also *Zinerman v.*
19 *Burch*, 494 U.S. 113, 132, 110 S.Ct. 975, 108 L.Ed.2d 100 (1990) (“In situations
20 where the State feasibly can provide a predeprivation hearing before taking property,
21 it generally must do so regardless of the adequacy of a postdeprivation tort remedy
22 to compensate for the taking.”); *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532,
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1 542, 105 S.Ct. 1487, 84 L.Ed.2d 494 (1985) (“We have described the root
2 requirement of the Due Process Clause as being that an individual be given an
3 opportunity for a hearing before he is deprived of any significant property interest.”
4 (quotation marks omitted)).
5

6 The Redman court has stated in other words, the government may not take
7 property like a thief in the night; rather, it must announce its intentions and give the
8 property owner a chance to argue against the taking.
9

10 When a police department authorized a private towing company to tow a car.
11 The towing was unconstitutional because the car’s owner did not have notice.
12 However, the Ninth Circuit found that the responsibility to give notice falls on the
13 police, the constitutional violation arose from the inactions of the police rather than
14 from any act or omission by the towing company.
15
16

17 In this case, Defendant San Francisco Police Department failed to show any
18 exigency situation, because Plaintiff Reshma Kamath’s car was properly registered,
19 not blocking any drive-way, and not parked on a fire lane.
20

21 Plaintiff Reshma Kamath is such a great driver that she is so careful and
22 courteous in driving for over twenty-four years of driving starting with a permit
23 when she was fifteen years old.
24

25 **C. PLAINTIFF RESHMA KAMATH HAS ADEQUATELY PLED**
26 **FACTUAL ALLEGATIONS TO STATE LAW-CLAIM OF CONVERSION.**
27
28

OPPOSITION

1 “ ‘ “Conversion is the wrongful exercise of dominion over the property of
2 another. The elements of a conversion claim are: (1) the plaintiff’s ownership or
3 right to possession of the property; (2) the defendant’s conversion by a wrongful act
4 or disposition of property rights; and (3) damages....” ’ ” *Burlesci v. Peter sen* (1998)
5 68 Cal.App.4th 1062, 1066 [80 Cal.Rptr.2d 704]; *Welco Electronics, Inc. v. Mora*
6 (2014) 223 Cal.App.4th 202, 208, 166 Cal.Rptr.3d 877. Money cannot be the subject
7 of a cause of action for conversion unless there is a specific, identifiable sum
8 involved, such as where an agent accepts a sum of money to be paid to another and
9 fails to make the payment. *Fischer v. Machado* (1996) 50 Cal.App.4th 1069, 1072-
10 1073 [58 Cal.Rptr.2d 213].

11 A plaintiff in a conversion action must also prove that it did not consent to the
12 defendant's exercise of dominion. See *Farrington v. A. Teichert & Son, Inc.*, 59
13 Cal.App.2d 468, 139 P.2d 80, 83 (1943) (holding that no conversion action exists
14 where the plaintiff consented to the removal of his personal property); see also, e.g.,
15 Judicial Council of Cal. Civil Jury Instructions No. 2100 (listing plaintiff's lack of
16 consent as an element of conversion); *Tavernier v. Maes*, 242 Cal.App.2d 532, 51
17 Cal.Rptr. 575, 587-88 (1966).

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24 **D. PLAINTIFF RESHMA KAMATH HAS ADEQUATELY PLED**
25 **FACTUAL ALLEGATIONS TO UNREASONABLE WARRANTLESS**
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OPPOSITION

 **RESHMA KAMATH**
ATTORNEY AT LAW

1 **SEIZURE UNDER THE FOURTH AMENDMENT OF THE UNITED**
2 **STATES CONSTITUTION.**

3
4 The Fourth Amendment protects “[t]he right of the people to be secure in their
5 persons, houses, papers, and effects, against unreasonable searches and seizures....”
6 (U.S. Const., 4th Amend.)

7
8 The State of California “has preempted the field of motor vehicle traffic
9 regulation,” thus, “[a] city has no authority over vehicular traffic control except as
10 expressly provided by the Legislature.” *Save the Sunset Strip Coalition v. City of*
11 *West Hollywood* (2001) 87 Cal.App.4th 1172, 1177–1178, 105 Cal.Rptr.2d 172.

12
13 “Several California federal district court decisions have followed *Miranda* in
14 concluding that tows of legally parked cars based on unpaid tickets are not within
15 the vehicular community caretaking exception.” *Coal. on Homelessness v. City of*
16 *San Francisco* (2023) 93 Cal.App.5th 928, 944.

17
18 Plaintiff Reshma Kamath has stated that while towing her vehicle on 450
19 Golden Gate Ave., San Francisco – where other cars were not towed and not
20 ticketed. This caused an unreasonable search or seizure without a warrant under the
21 Fourth Amendment of the United States Constitution.

22
23 In *Coalition on Homelessness v. City and County of San Francisco*, 93
24 *Cal.App.5th 928* (2023), the Court of Appeal ruled in the plaintiff’s favor stating that
25 San Francisco cannot tow safely parked vehicles, without a warrant, solely because
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OPPOSITION

1 of unpaid parking tickets – even under California Vehicle Code Section 22651(i)(1).
2 Appellant in *Coalition* alleged that the warrantless tows violated article I, section 13
3 of the California Constitution, and, by way of extension, the Fourth Amendment.
4 Appellant also alleged the tows violated the owners’ constitutional due process
5 rights.
6

7 Similar to *Coalition*, Defendant SFPD cite “no authority that such deterrence
8 is a sufficient basis for a warrantless tow of a legally parked car under the vehicular
9 community caretaker exception. To the contrary, the Miranda court expressly
10 rejected a deterrence rationale as justification for impoundment of a vehicle that was
11 not “actually ‘impeding traffic or threatening public safety and convenience’ on the
12 streets.” *Miranda v. City of Cornelius* (9th Cir. 2005) 429 F.3d 858, 862, 865,
13 quoting *S. Dakota v. Opperman* (1976) 428 U.S. 364, 369, 96 S.Ct. 3092, 49
14 L.Ed.2d 1000).
15

16 Thus, Plaintiff Reshma Kamath has sufficiently met the factual allegation to
17 demonstrate warrantless seizure under the Fourth Amendment constitutional
18 violation.
19

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22 **E. PLAINTIFF RESHMA KAMATH HAS ADEQUATELY PLED**
23 **FACTUAL ALLEGATIONS OF SELECTIVE ENFORCEMENT AND**
24 **DISCRIMINATION PURSUANT TO 42 USC 1983 MONELL POLICY OR**
25 **CUSTOM CLAIMS**
26
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1 Plaintiff has sufficiently negated the distinction in *Rosenbaum v. City and*
2 *Cnty. of San Francisco*, 484 F.3d 1142, 1153 (9th Cir. 2007) that Defendant seeks to
3 raise.
4

5 Plaintiff Reshma Kamath has stated that other members of the public were
6 freely allowed to park on 450 Golden Gate Ave., San Francisco – where their cars
7 were not towed and not ticketed.
8

9 Plaintiff Reshma Kamath alleges that this is not an isolated or sporadic
10 incident.
11

12 Plaintiff Reshma Kamath alleges that the Defendant San Francisco Police
13 Department’s custom of not towing and ticketing other civilian vehicles on 450
14 Golden Gate Ave., San Francisco, California, and demonstrating racial and gender
15 discrimination, is so persistent and widespread that it constitutes a permanent and
16 well-settled city policy.
17

18 Plaintiff Reshma Kamath alleges that the Defendant San Francisco Police
19 Department’s practice has shown sufficient duration, frequency and consistency on
20 different days, different times of the day, different sides of the street, different type
21 of vehicles with no parking sticker or authorization permit displayed on their
22 windshield - that the Defendants’ conduct has become a traditional method of
23 carrying out policy.
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OPPOSITION

1 Plaintiff Reshma Kamath wants to demonstrate the Defendant Police
2 Department's discriminatory policy as to that particular street.

3
4 Thus, Plaintiff Reshma Kamath has sufficiently met the factual allegation to
5 demonstrate selective enforcement and/or discrimination under Monell.

6 **III. PLAINTIFF RESHMA KAMATH HAS PICTORAL AND VIDEO**
7 **EVIDENCE RELATED TO HER FACTUAL ALLEGATIONS AGAINST**
8 **DEFENDANT SAN FRANCISCO POLICE DEPARTMENT**

9
10 Plaintiff Reshma Kamath has documented evidence religiously each time the
11 Defendants unlawfully violated a law, policy or custom of the San Francisco Police
12 Department. A true and correct picture(s) that plaintiff Reshma Kamath documented
13 in real-time attached to the opposition in **Exhibits A and B**, and incorporated via
14 reference herein. Thus, there is no further explanation required.

15
16
17 **IV. THE CITY AND COUNTY ARE NOT REQUIRED TO BE NAMED AS**
18 **DEFENDANTS FOR THE DEFENDANT SAN FRANCISCO POLICE**
19 **DEPARTMENT TO BE NAMED AS DEFENDANT HEREIN**

20
21 Defendant San Francisco Police Department have failed to allege that the
22 multitude of vehicles and cars parked on 450 Golden Gate Avenue were exempt
23 under a policy; were police-officers in civilian clothing; or had some other
24 authorization to park on the street.
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OPPOSITION

1 In *Streit v. County of Los Angeles* (9th Cir. 2001) 236 F.3d 552, the court
2 found that sheriff's departments and police departments are "separately suable
3 entities" in a § 1983 suit. *Shaw v. California Dep't of Alcoholic Beverage Control*,
4 788 F.2d 600, 605 (9th Cir. 1986).

6 Relying on California court decisions that "held that a police department is a
7 public entity under section 200 of the California Evidence Code," we then concluded
8 that "the courts of California would hold that the Police Department is a public
9 entity under section 811.2." *Shaw*, at 604; see also *Karim-Panahi v. Los Angeles*
10 *Police Dep't*, 839 F.2d 621, 624 n. 2 (9th Cir. 1988) ("Municipal police departments
11 are 'public entities' under California law and, hence, can be sued in federal court for
12 alleged civil rights violations."). Thus, under Federal Rule of Civil Procedure Rule
13 17(b) a Police Department may be sued in Federal Court. *Shaw*, at 605.

17 Thus, Defendant San Francisco Police Department is properly sued.

18 **V. IN THE ALTERNATIVE, LEAVE TO AMEND MUST BE**
19
20 **LIBERALLY GRANTED.**

21 Since Defendant San Francisco Police Department contends it is a department
22 of the City and County of San Francisco, Plaintiff Reshma Kamath will amend to
23 include the latter. Plaintiff Reshma Kamath is not suing under the California Torts
24 Claims Act or Government Code for any negligence, physical injury or property
25 damage claim(s).
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OPPOSITION

1 Thus, the City government is not required to be named a defendant, because
2 Defendant San Francisco Police Department is a suable entity under section 1983.

3
4 **CONCLUSION**

5 Based on the foregoing, Plaintiff Reshma Kamath contends that Defendant
6 San Francisco Police Department's Motion to Dismiss must be Denied in the
7 entirety, or in the alternative, leave to amend must be liberally granted.
8

9 ///

10 *Respectfully Submitted,*

11 **RESHMA KAMATH**

12 **FEBRUARY 18, 2024**

13 */s/ Reshma Kamath*

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15 Reshma Kamath,
16 *In Propria Persona*
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OPPOSITION